

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: MARIE K. WALSH et al. )  
TITLE: TEXTURED WHEY PROTEIN )  
PRODUCT AND METHOD )  
SERIAL NO.: 10/644,604 )  
FILED: August 19, 2003 ) DECLARATION UNDER 37  
EXAMINER: A.J. Weier ) C.F.R. § 1.132  
ART UNIT: 1761 )  
DOCKET: T9105.C )

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Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

DECLARATION OF CONLY L. HANSEN

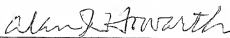
CONLY L. HANSEN hereby declares as follows:

1. That he received a B.S. degree in Mechanical Engineering from Utah State University, Logan, Utah, in 1971; an M.E. degree in Mechanical Engineering from Utah State University, Logan, Utah, in 1973; and a Ph.D. degree in Agricultural Engineering from Ohio State University, Columbus, Ohio, in 1980.

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CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the 25th day of May, 2007.

  
Alan J. Howarth  
Attorney Registration No. 36,553

2. That after earning his Ph.D., he was employed as an Assistant Professor in Agricultural Engineering, Food Science, and Bioengineering at Ohio State University and the Ohio Agricultural Research and Development Center, Wooster, Ohio from 1980 to 1985; as an Associate Professor of Nutrition and Food Sciences, Civil and Environmental Engineering, and Biological and Irrigation Engineering at Utah State University, Logan, Utah, from 1985 to 1994; and as a Professor of Nutrition and Food Sciences and Biological and Irrigation Engineering and Director of the Center for Profitable Uses of Agricultural Byproducts at Utah State University, Logan, Utah, from 1994 to the present; and as President of Hansen Energy and Environmental, LLC, North Logan, Utah, from 2001 to the present.

3. That he is an inventor or co-inventor of U.S. Patent No. 5,053,237 for Method for Tenderizing and Upgrading the Sensory Qualities of Red Meat; U.S. Patent No. 6,763,760 for Machine for Injecting Liquids; U.S. Patent No. 6,911,149 for Induced Sludge Bed Anaerobic Reactor; and pending patent applications.

4. That he has taught or is currently teaching undergraduate courses in Meat Plant Engineering (NFS 359), Food Engineering (NFS 444), and Capstone Course in Food Science (NFS 492); and, among others, has taught or is currently teaching graduate courses in Food Processing (NFS 506/606 and NFS 4440) and Food Engineering (NFS 544 and BIE/NFS 5610/6610).

5. That he has conducted original research in the following food-related areas: Production of Ultrafiltered Skim Milk Retentate Powder, Composition and Physical and Functional Properties; A Method for Measuring Water Holding Capacity of Milk Powders;; Pressure, pH, Temperature and Moisture Profiles During Processing of 290-kilogram Stirred-curd Cheddar Cheese Blocks; Handling Food Processing Waste; Production of Non-fat Dairy Whipped Topping; Production of Low-fat Yogurt Cheese Product (Sjilke™); Development of a High Pressure Food Injection Apparatus; Development of a Laser Apparatus to Measure Syneresis in Real Time; Functional Properties of Extruded Dairy Proteins; Moisture Movement in Low Fat Cheese; Development of New Products Using Mechanically Deboned Meat from Trout Frames; and High Pressure Injection of Cheese.

6. That he has been an invited guest speaker at numerous professional conferences, symposia, and seminars, and has further presented more than 100 papers, poster presentations, and abstracts at scientific conferences, symposia, and short courses.

7. That he has been recognized with appointments in national and international committees and organizations including Chair, Vice Chair, and Secretary of the Food Processing Engineering Institute, and Associate Editor of the Transactions of the American Society of Agricultural Engineers; and has been a reviewer for peer-reviewed scientific publications including Journal of Food Science, Transactions of the American Society of Agricultural

Engineers, Applied Engineering in Agriculture, Bioresource Technology, and Food Technology.

8. That he has been awarded research grants and contracts valued at about \$6.9 million.

9. That he has been an author or co-author of three scholarly books, four chapters in scholarly books, and at least 50 refereed journal articles.

10. That he has read the disclosure and claims of the instant U.S. Patent Application No. 10/644,604; the Office Action dated December 13, 2006, concerning this application; and U.S. Patent No. 3,886,299 ("the Feldbrugge patent"), which was cited in the Office Action as a reference under 35 U.S.C. § 103(a) against the application.

11. That, in his opinion, the disclosure contained in the Feldbrugge patent would not have enabled a person of ordinary skill in the art to which the subject matter of the instant patent application pertains to make or use the invention claimed in any claim of the instant patent application at the time the invention was made.

12. That, in his opinion, because of the deficiency of the disclosure contained in the Feldbrugge patent described in

paragraph 12, the differences between the subject matter sought to be patented in the instant application and the Feldbrugge patent are such that the subject matter as a whole of the presently claimed invention would not have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter of the instant patent application pertains.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Date: \_\_\_\_\_

\_\_\_\_\_  
Conly L. Hansen

paragraph 12, the differences between the subject matter sought to be patented in the instant application and the Faldorrupe patent are such that the subject matter as a whole of the presently claimed invention would not have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter of the instant patent application pertains.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Date:

May 15, 2007

Carly J. Hanson  
Carly J. Hanson